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14 UNITED STATES DISTRICT COURT

15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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TOY; TERESA TOY; and VANESSA WEST; For  
23 Themselves, As Private Attorneys General, and On  
24 Behalf Of All Others Similarly Situated,

25 Plaintiffs,

26 vs.

26 CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS; and VERIZON  
27 COMMUNICATIONS INC.,

28 Defendants.

CASE No. 3:21-cv-08592-EMC

**VERIZON'S MEMORANDUM IN  
SUPPORT OF REQUEST FOR  
LEAVE TO FILE NOTIFICATION  
OF CHANGE TO CUSTOMER  
AGREEMENT**

Judge: Hon. Edward M. Chen

1 Defendants Verizon Wireless and Verizon Communications, Inc. (collectively, “Verizon”)  
2 respectfully submit this Notice to inform the Court of a factual development subsequent to the  
3 May 19, 2022, hearing on Defendants’ motion to compel arbitration.

4 Specifically, Defendants write to inform the Court that Verizon plans to update Paragraph  
5 (6) of the dispute resolution provisions of its Customer Agreement to expressly provide that, upon  
6 initiating a notice of dispute or filing a complaint in court, the statutes of limitations applicable to  
7 a customer’s dispute are tolled until the completion of the coordinated arbitration proceeding  
8 described in Paragraph (6). *See* Declaration of Lacy Kennedy, IV (“Kennedy Decl.”) ¶¶ 5, 6. As  
9 explained in the Kennedy declaration, in or around August 2022, Verizon will begin notifying  
10 customers of this change through bill messages and the updated policy will become effective 30  
11 days after a customer is notified of the revision. *See* Kennedy Decl. ¶ 7.

12 With respect to customers whose disputes are subject to Paragraph (6) and have currently-  
13 pending notices of dispute or complaints in court, Verizon will consider all applicable statutes of  
14 limitations tolled for the duration of their coordinated arbitration proceeding. *See id.* ¶ 8. This  
15 would also include all Plaintiffs in the action before this Court to avoid any unconscionable result.  
16 *See, e.g., Mohamed v. Uber Techs., Inc.*, 836 F.3d 1102, 1112 (9th Cir. 2016) (rejecting plaintiffs’  
17 argument that a cost-splitting provision rendered the arbitration agreement unenforceable because  
18 “Uber has committed to paying the full costs of arbitration”); *Tompkins v. 23andMe, Inc.*, 840  
19 F.3d 1016, 1033 (9th Cir. 2016) (Watford, J., concurring) (“I see no need to address whether the  
20 fee-shifting clause is substantively unconscionable because 23andMe has waived its right to  
21 enforce that clause—a clause that would have been severable in any event.”); *see also* CAL. CIV.  
22 CODE § 1670.5(a) (West 2022) (“If the court as a matter of law finds the contract or any clause of  
23 the contract to have been unconscionable at the time it was made the court ... may so limit the  
24 application of any unconscionable clause as to avoid any unconscionable result.”).

25 Verizon’s updated policy is intended to clarify and confirm that, under Paragraph (6) of the  
26 dispute resolution provisions of its Customer Agreement, initiating notices of dispute or filing a  
27 complaint in court tolls applicable statutes of limitations for the duration of a claimant’s  
28 coordinated arbitration proceeding. For the reasons set forth in Verizon’s Motion to Compel

1 Arbitration and Stay Proceedings (ECF No. 20) and Verizon Reply in support thereof (ECF No.  
2 34), Paragraph (6) is a valid and binding provision that the Court should enforce.

3  
4 DATED: June 8, 2022

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7 By /s/ Crystal Nix-Hines  
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